
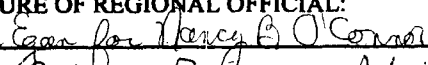


<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: 05-03	2. STATE Maryland
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) Medicaid	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE July 1, 2004	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: See Attached page.		7. FEDERAL BUDGET IMPACT: a. FFY 2004 \$(1,337,500) b. FFY 2005 \$(5,350,000)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 3.1A, Page 27A Attachment 4.19 A&B, Page 6 Attachment 4.19 A&B, Page 6a Attachment 4.19 A&B, Page 7A Attachment 4.19 A&B, Page 8		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 3.1A, Page 27A (04-08) Attachment 4.19 A&B, Page 6 (04-23) Attachment 4.19 A&B, Page 6a (03-7) Attachment 4.19 A&B, Page 7A (03-7) Attachment 4.19 A&B, Page 8 (03-7)	
10. SUBJECT OF AMENDMENT: Change pharmacy co-payment and dispensing fee on prescriptions under the fee-for-service Pharmacy Program. Require the prescriber to document any adverse drug reaction caused by the generic version of a medication before the Program will reimburse for the brand as medically necessary.			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED      Susan J. Tucker, Executive Director <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL      Office of Health Services			
12. SIGNATURE OF STATE/AGENCY OFFICIAL: 		16. RETURN TO: Susan J. Tucker, Executive Director OHS - DHMH 201 W. Preston St., 1 <sup>st</sup> floor Baltimore, MD 21201	
13. TYPED NAME: Nelson J. Sabatini			
14. TITLE: Secretary, Department of Health & Mental Hygiene			
15. DATE SUBMITTED: September 1, 2004			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: August 31, 2004		18. DATE APPROVED: November 9, 2004	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: July 1, 2004		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: Nancy B. O'Connor		22. TITLE: Acting Regional Administrator	
23. REMARKS:			

STATE PLAN OF MEDICAL ASSISTANCE  
UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
STATE OF MARYLAND

PROGRAM

LIMITATIONS

Continued  
12.A. Prescribed  
drugs

5. Co-Payment

(a) There will be no co-payment by recipients for each covered pharmacy service for the following:

- (i) Individuals under 21 years old;
- (ii) Pregnant women;
- (iii) Institutionalized individuals who are inpatients in long term care facilities or other institutions requiring spending all but a minimum amount of income for medical costs;
- (iv) Family planning services and supplies;
- (v) Services furnished to an individual who is receiving hospice care;
- (vi) Emergency services in accordance with 42 CFR 447.53(a);

(b) The co-payment for each covered pharmacy service not excluded from a co-payment in (a) above will be:

- (i) \$2 for prescriptions for brand name drugs not on the preferred drug list; and
- (ii) \$1 for prescriptions for generic drugs and brand name drugs on the preferred drug list.

(c) Services cannot be denied to any eligible recipient because of the individual's inability to pay the co-payment. This requirement does not apply to an individual who is able to pay. An individual's inability to pay does not eliminate his or her liability for the copayment charges. A recipient is deemed unable to pay the co-payment if the recipient states to the pharmacist that he or she cannot pay. Pharmacists may not make any inquiry or investigation into the recipient's ability to pay.

TN# 05-03  
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Approval Date Nov. 9, 2004  
Effective Date July 1, 2004

- (a) The Estimated Acquisition Cost (EAC) which is the lowest price of a drug product as determined by the following criteria;
    - (i) Wholesale Acquisition cost (WAC) plus eight percent;
    - (ii) Direct price plus eight percent;
    - (iii) Distributor's price plus eight percent; or
    - (iv) Average Wholesale Price (AWP) less twelve percent
  - (b) Federal Generic Upper Limit (FGUL) which is the upper limit of payment for a multiple source drug for which a specific maximum allowable cost has been established by the Center for Medicare and Medicaid Services (CMS) of the Department of Health and Human Services;
- (2) For all other prescribed drugs, and schedule V cough preparations, the allowable cost shall be the EAC established by the Department, as described in (b) above.
  - (3) Notwithstanding the provisions of (1) above, when a prescriber files an official report of an adverse event or product problem regarding a generic

TN# 05-03  
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TN# 04-23

Approved Date Nov. 9, 2004 Effective Date July 1, 2004

drug product with the United States Food and Drug Administration, the EAC of the alternate equivalent brand name product shall be the allowable cost.

- (4) For condoms dispensed by Pharmacy providers, the allowable cost shall be the EAC established by the Department based upon the AWP of the lowest price products generally available.
- (5) For covered over-the-counter drugs, except those specified in section i. below, allowable cost shall be based on the AWP of the item.
- (6) For medical supplies and equipment, the allowable cost shall be based on the AWP of the item.
- i. Payment for covered services to a pharmacy will be made as follows:
  - (1) Payment for legend drugs, Schedule V cough preparations, enteric coated aspirin, ergocalciferol liquid, and oral ferrous sulfate products will be the lower of:
    - (a) The providers charge according to section f above; or
    - (b) The allowable cost of the item in section h, above, plus a professional fee.
  - (2) Payment for over-the-counter drugs except for enteric coated aspirin, ergocalciferol liquid, oral ferrous sulfate products, and chewable tablets of ferrous salts in combination as described shall be the lowest of:

TN# 05-03  
Supersedes  
TN# 03-7

Approval Date Nov 9, 2004 Effective Date JULY 1, 2004

- (b) The upper limit established by the Department based upon the lowest price at which the product is generally available throughout the State.
- (7) Recipient co-payment of \$2 or \$1 per order, whichever is applicable, will be deducted from the payment where applicable in (1), (2) and (3) and (6) above.
- (8) The Department may pay providers using an approved unit dose system on the basis of a daily or monthly dispensing fee per nursing home resident. The value of these fees may not be higher than the pharmacists' usual and customary charge to the non-Medicaid patients for similar services. Payments to nursing facilities will not exceed, in the aggregate, the FGUL.
- j. The professional fee is a variable fee based on the type of prescription and is \$2.69 for brand name drugs not on the preferred drug list and \$3.69 for generic drugs and for drugs on the preferred drug list, except for prescriptions for compounded home intravenous therapy and prescriptions for recipients residing in nursing homes. For compounded prescriptions for home intravenous therapy the professional fee is \$7.25. For prescriptions for recipients residing in nursing homes that are not compounded for home intravenous therapy, the professional fee is \$3.69 for brand name drugs not on the preferred drug list and \$4.69 for generic drugs and for drugs on the preferred drug list.
- k. Payment for covered services to a physician or osteopath shall be make as follows:
- (1) Payment for legend drugs, Schedule V cough preparations, over-the-counter drugs including enteric coated aspirin, ergocalciferol liquid and oral ferrous sulfate products shall be the lower of:
- (a) The physician's or osteopath's charge according to g, above; or

TN# 05-03  
Supersedes  
TN# 03-7

Approval Date Nov 9, 2001 Effective Date JULY 1, 2004

(b) The allowable cost of the item in h. above.

(2) Recipient co-payment of \$2 or \$1 per order will be deducted from the payment where applicable.

1. Reimbursement to a licensed physician for dispensing covered drugs to Medicaid recipients will be on the same basis as reimbursement to a registered pharmacist, if:

(1) The physician dispenses drugs on a regular basis in the physician's office;

(2) The physician's office is not located within a 10 mile radius of a Medicaid participating pharmacy; and

(3) The Medical Assistance Program, after a consultation with the Board of Pharmacy, has verified that the physician is dispensing medication in accordance with accepted pharmacy standards.

m. Payment will be made only for drugs supplied by manufacturers that have a signed national agreement or an existing approved agreement with the State, as set forth in Attachment 3.1A.

n. The State will not pay for:

(1) Prescribed drugs as described in Attachment 3.1A, Prescribed Drugs, Limitations.

(2) Products that are not medically necessary or life sustaining or are essentially cosmetic in nature.

TN# 05-03  
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